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Gregory P. Einhorn
Morrison & Foerster LLP
12531 High Bluff Drive, Suite 100
San Diego, CA 92130-2040

In re Application of :
Barton, et al. :
Application No.: 10/593,846 :
PCT No.: PCT/US2005/009927 :
Int. Filing Date: 24 March 2005 :
Priority Date: 24 March 2004 : DECISION
Attorney's Docket No.: 564462006801 :
For: CHIMERIC CANNULAE PROTEINS,
NUCLEIC ACIDS ENCODING THEM AND
METHODS FOR MAKING AND USING THEM :

This is in response to applicant's request to refund \$3,055, filed 16 January 2008.
Applicant urges that the extra claim fees were charged in error.

BACKGROUND

On 24 March 2005, applicants filed international application PCT/US2005/009927 which claimed priority to United States provisional applications, the earliest of which was filed 24 March 2004. Accordingly, the thirty-month period for paying the basic national fee in the national stage in the United States expires at midnight on 24 September 2006.

On 21 September 2006, applicant filed a transmittal letter including, *inter alia*, authorization to charge the deposit account the \$150 which included the basic national fee, along authorization to charge applicant's deposit account #03-1952 any additional fees that may be required. These papers were assigned U.S. application number 10/593,846.

On 28 September 2006, the United States Patent and Trademark Office charged applicant's deposit account the basic national fee of \$150. On 26 December 2007, the United States Patent and Trademark Office charged applicant's deposit account an additional \$3,055 including the search fee, examination fee, fee for multiple dependent claims, extra page fee and additional claim fees.

On 16 January 2008, applicant filed the current request for refund indicating that the fees charged on 26 December 2007 were charged in error.

DISCUSSION

As indicated above, the transmittal letter (Form PTO-1390) included a general authorization to charge "any additional fees that may be required." The fees for the search examination, extra page fees for pages presented in excess of 100, and extra claims for claims presented in excess of 20 are all required fees. See MPEP 607 and 1893.01(c). The payment of required fees cannot reasonably be deemed a mistake.

Applicant's assertion that the "box was checked in error by a secretary who was training to file National Stage applications, and did not understand that this box was not to be checked when a National Stage application is being filed while paying only the Basic Fee" is not persuasive since the practitioner is responsible for reviewing papers which bear his signature.

CONCLUSION

For the above reasons, the request for refund is **DISMISSED without prejudice.**

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this action.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra S. Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Telephone: (571) 272-3280
Facsimile: (571) 273-0419

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration